

REMARKS/ARGUMENTS

Claims 1, 2, 4-7, 9-12 and 14-23 are pending to the present application. Claims 3, 8 and 13 were previously cancelled. No new claims have been added. Accordingly, claims 1, 2, 4-7, 9-12 and 14-23 are currently under consideration. Amendment and/or cancellation of certain claims is not to be construed as dedication to the public of any of the subject matter of the previously presented claims

Applicants respectfully disagree with the grounds for rejection raised by the Examiner and request reconsideration of the claims based on the remarks herein.

Claim Rejection Under 35 U.S.C. § 103

To establish a prima facie case of obviousness, three basic criteria must be met. See MPEP §§ 706.02(j), 2143-2143.03; *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *Id.*

Claims 1, 2, 4-7, 9-12 and 14-23 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Chang et al [U.S. Pub No. 2005/0227709, hereinafter "Chang et al. "] in view of Diggelen [US Pub No. US 2004/0117114, hereinafter "Diggelen"]. Applicants respectfully traverse these rejections.

The Examiner acknowledges on page 3 of the Office Action, that "Chang does not use schedule," and therefore relies of Diggelen for such teaching. First, as previously set forth, in Applicants' Response to Office Action dated November 30, 2006, Applicants respectfully submit that the proposed combination is improper as Chang et al. teaches away the use of a schedule.

Second, Applicants assert that the schedule used in the Diggelen et al. method is not the claimed schedule.

Chang et al. disclosed a system in which generated aiding data sets are stored at intervals on a data-storing network server, whereby updated aiding data sets are available on a continuous basis for access by a requesting entity via communication with the data-storing network (Abstract, see also, FIG. 3, step 320). In particular the operation of the Chang et al. system paragraph [0035] is as follows:

[0035] The aiding data generated by the A-GPS server 140 can be utilized to fulfill a request for the position of a target mobile station 160. Such a request can be made by any appropriate requesting entity communicating with the system 100. The requesting entity can be, for example, an application, site, or end user that utilizes the position of a mobile station 160 in order to provide location-based services (e.g., map information, travel directions, tracking, commercial information) or emergency services (e.g., E911 service) to the user of the mobile station 160. The requesting entity can also be the target mobile station 160 itself or another mobile station that seeks the position of the target mobile station 160. For convenience, the remainder of the description of the operation of the exemplary system 100 illustrated in FIGS. 1 and 2 will assume that the requesting entity is the mobile station 160, with the understanding that the system 100 and methods encompassed by this disclosure are not limited to this scenario.

As evident from the above passage, aiding data is not broadcast to the target mobile according to a schedule, but requires the target mobile to initiate a request for data. That is, the Chang et al. system supplies the aiding data only when the target mobile requests the data thereby reducing network bandwidth requirements. (See, e.g., paragraph [0045]). Therefore, Chang et al. effectively teaches away "broadcasting according to a schedule... to the plurality of telemetry devices." A reference should be considered as a whole, a portions arguing against or teaching away from the claimed invention must be considered. *Bauch & Lomb, Inc., v. Barnes-Hind/Hydrocurve Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986). The mere fact that combining references could possibly create an argument for obviousness does not make combining such references proper or appropriate.

Moreover, Diggelen does not cure the deficiencies of Chang et al. (even assuming that the references could be properly combined). Applicants assert that the schedule in Diggelen, as pointed out in the Office Action, is specifically used for the purpose of scheduling the transmission of new satellite tracking data during low traffic periods. (Office Action p. 3-4). The schedule of Diggelen relates to acquiring location information regarding satellite signals. (Diggelen paragraph [0014]). Specifically, Diggelen relates to "long term satellite tracking data" (Diggelen Abstract, see also, paragraphs [0003], [0013], [0014]). Further, Diggelen clarifies [a]s such, the satellite tracking data delivered to the remote receivers 104 may be referred to herein as "long term satellite tracking data" in order to distinguish such data from the broadcast ephemeris, which is typically only valid between 2 and 4 hours." (Diggelen, paragraph [0027]).

In contrast, in the instant application the data is retrieved and "is stored for a finite period of time and made available for use by scheduled data acquisitions, data acquisitions on demand, and data acquisitions associated with alerts." (Patent Application paragraph [0048]). Furthermore, the present application includes ephemeris data and provides for real-time data. (See, e.g., Patent Application paragraphs [0032], [0046], [0056]). Thus the schedule of Diggelen is distinguishable from the claimed schedule.

Furthermore, unlike Diggelen, the transmission of geolocation data in the subject application is specifically true location and not pseudo range data, as such, the purpose of the schedule of Diggelen is distinguishable from the claimed schedule. (See, Diggelen paragraph [0024], Patent Application paragraph [0032]).

CONCLUSION

Based on the foregoing, Applicants respectfully request reconsideration and withdrawal of the obviousness rejection and allowance of all the pending claims is believed to be warranted, and such action is respectfully requested. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-1847 referencing docket no. 270480340070602. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

By 

Pamela S. Merkadeau

Registration No.: 53,318

Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Building 2
Palo Alto, California 94304-1018
Telephone: (650) 812-1375
Facsimile (650) 213-0260